

RESOLUTION NO. 2000-155

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING RESPONSE TO GRAND JURY FINAL
REPORT RELATING TO MANTECA-LATHROP
WASTEWATER TREATMENT CONTRACT – CONTRACT
MANAGEMENT AND TRACKING

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WHEREAS, the San Joaquin County Grand Jury has initiated a review of the Manteca-Lathrop Wastewater Treatment Contract; and

WHEREAS, the review was subsequently expanded to include contract management and tracking practices of all seven cities in San Joaquin County; and

WHEREAS, the Grand Jury Final Report (Attachment B attached hereto) requires that the seven cities respond to the findings and to their specific recommendations; and

WHEREAS, the City of Lodi has prepared a response and is attached hereto marked Exhibit A; and

WHEREAS, staff recommends that the City Council approve the written response, and authorize and direct the Mayor to execute the letter of response as set out in Exhibit A attached hereto.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lodi does hereby approve the City's response to the Grand Jury Report, and further authorizes the Mayor to execute the letter of response.

Date: August 16, 2000


I hereby certify that Resolution No. 2000-155 was passed and adopted by the Lodi City Council in a regular meeting held August 16, 2000 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Land, Nakanishi, Pennino and Mann (Mayor)

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


Susan J. Blackston
City Clerk

Stephen Mann

MAYOR

Alan Nakanishi

MAYOR PRO TEMPORE

Susan Hitchcock

COUNCIL MEMBER

Keith Band

COUNCIL MEMBER

Phillip A. Pennino

COUNCIL MEMBER



City of Lodi

OFFICE OF THE CITY MANAGER

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H. Dixon Flynn

CITY MANAGER

Susan J. Blackston

CITY CLERK

Randall A. Hays

CITY ATTORNEY

August 8, 2000

Presiding Judge
San Joaquin County Superior Court
3rd Floor County Courthouse
Stockton, CA 95202

Your Honor,

The City of Lodi is in receipt of the Grand Jury's Final Report Case No. 2199 entitled "Manteca-Lathrop Wastewater Treatment Contract – Contract Management and Tracking." As such, the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy are required to respond to the findings pursuant to Sections 933.(c) of the Penal Code. Specifically, the Grand Jury has noted their findings on Page III of the Report (Items #8 - #15) and has requested a response to those findings in addition to a response to recommendations noted on Pages IV-V (Section E.a – E.d). The City of Lodi therefore provides the following responses:

FINDINGS: ALL CITIES –

The City of Lodi concurs with Items #8 - #15 noted on Page III of the Final Report

RECOMMENDATIONS: ALL CITIES –

"The City Manager of each City should establish a written policy on Contract Management and Tracking as part of his Fiscal Management Policies."

The City of Lodi currently has a repository for contracts which are maintained by the City Clerk's Office (please see Attachments). Contracts, upon approval by the City Council, are ultimately routed to the City Clerk's Office for filing and are readily accessible to members of staff as well as to members of the public. It should be noted, however, that this system is not intended for tracking contract compliance or as an auditing tool. On the contrary, each Department has its own means for tracking contracts, which has proven successful thus far. The repository does provide the City with a one-stop shop for accessing the documents.

The City Clerk's contract files do contain the recommended information as noted in Section E.a.i. – E.a.vi:

- i. A copy or description of the contract and where it is stored
- ii. Who the contract is with
- iii. The term (length) of the contract
- iv. Who, by title or position, administers the contract
- v. Who, by title or position, can approve changes
- vi. Other information deemed useful

The Grand Jury's recommendation to establish a written policy regarding Contract Management and Tracking is a good recommendation which will be brought back to the City Council for review within the calendar year 2000.

The Grand Jury further notes in Section E.b. *"A requirement that each contract be read and reviewed at least yearly by the appointed contract administrator. This could be done as part of the Budget Process."* Each City Department oversees their own contracts with regard to Electric Utility contract rates, Public Works landscaping, Information Systems equipment, janitorial services, etc. The respective Departments budget appropriately each fiscal year depending on their contracts. However, it would be prudent for the City to include this as a written policy for budget preparation.

Section E.c. of the Final Report recommends *"Establishment of a 'tickler system' that would help with meeting important milestones established in any and all contracts."* The City of Lodi's Information Systems Manager will study this recommendation as it may be only a matter of creating a master calendar through Microsoft Outlook and entering the data when the contracts are approved by the City Council.

The final recommendation, Section E.d. *"Standardize as many aspects of contracts as possible"* is currently being achieved by the City Attorney's Office. Every contract must be approved as to format by the City Attorney before it goes forward to the City Council for consideration. This recommendation can be incorporated into a written policy.

On behalf of the City of Lodi, I thank you for your interest in our City procedures and can assure you that further consideration of the aforementioned recommendations will be brought before the City Council.

Respectfully,

Stephen J. Mann
Mayor

Attachments



CONTRACT POLICY

August 9, 2000

Jacqueline L. Taylor
Deputy City Clerk

SUBJECT: AGREEMENTS AND CONTRACTS

Upon approval of the City Council, contracts and agreements are tracked to completion with identifying details such as the responsible department, council approval date, vendor information and special instructions (such as recording the document or an additional deed with the document).

Contracts received in the City Clerk's office are processed as follows:

Confirm City Council approval and Risk Manager approval of insurance certificate.
Prepare proper documentation and attach routing form - route for signature.
Officially attest, seal and distribute.

One fully executed original is retained and processed for permanent filing in the City Clerk's Office. We currently process several agreements per month and maintain more than 2,000 past and active contracts and agreements. Documents are logged, issued a permanent contract number and placed in chronological order in secured filing cabinets.

Each calendar year as part of our City-wide Records Retention Program, contract are reviewed for possible destruction based on completion date, specific or routine coverage and final review by originating department. An itemized list of documents is brought before the City Council for official approval prior to destruction.

Contracts are a crucial part of our records management procedures, and are accessible only to City Clerk's office personnel. Departments and interested parties may review contracts or request copies, but these items never leave the possession of the City Clerk's office.



CONTRACT ROUTING

May 25, 2000

Jacqueline L. Taylor
Interim City Clerk

SUBJECT: ROUTING OF CONTRACTS FOR SIGNATURE

1. Route your contracts for signature using a "Contract Routing Slip" (Exhibit A). Take a moment to add your name and extension, and to check the boxes indicating actions/signatures required.
2. Indicate on your routing sheet the date the City Council approved the contract (if applicable).
3. Verify there is a designated place for the City of Lodi representative to sign (Manager or Mayor), plus the City Attorney and City Clerk on your contract documents. If signature lines do not exist, add them to your documents before routing (as shown in Exhibit B).
4. **Mark each page requiring signature(s), and route contracts in a *Contract or Signature* folder.**

Following Approval of Council:

The City Clerk's office should receive a minimum of **three originals** of each contract requiring signatures, to be fully executed and then distributed as follows:

- City Clerk for Contract Files
- Contractor/Service Provider (we will mail or return to you for mailing to contractor)
- Originating Department

NOTE: If an insurance certificate is required as part of a contract/agreement, it should be approved by the Risk Manager and enclosed with the documents. Contracts will be put on hold until the insurance certificate is approved.

ALSO NOTE: It is the originating department's responsibility to forward a copy of each contract to the Finance Department for their records and distribution of funds/payment of services.

When Providing Contracts With Your Council Communication For The Council Packet:

The City Clerk's office should receive a minimum of **four originals** of each contract requiring signatures, to be fully executed following Council approval, and then distributed as follows:

- City Clerk for Council Packet
- City Clerk for Contract Files
- Contractor/Service Provider (we will mail or return to you for mailing to contractor)
- Originating Department

NOTE: If an insurance certificate is required as part of a contract/agreement, it should be approved by the Risk Manager and enclosed with the documents. Contracts will be put on hold until the insurance certificate is approved.

ALSO NOTE: It is the originating department's responsibility to forward a copy of each contract to the Finance Department for their records and distribution of funds/payment of services.

Following these instructions will ensure that contracts are routed for signature and distributed in a correct and timely manner. By the same token, discrepancies and shortfalls in the system may cause delays in the process.

If you have any questions, please don't hesitate to give me a call.

Jackie @ x2601

CONTRACT ROUTING SLIP

Contract Name: _____

Originating Department: _____

Initial when completed by your Dept.

☐

City-Attorney

Date Recd _____

Date Out _____

☐

For City Attorney review of contract/agreement language.

☐

For City Attorney signature "Approved as to Form" and return to _____ Dept., or forward to _____.

☐

Certificate of Insurance required? ____ Yes ____ No

☐

Risk Manager

Date Recd _____

Date Out _____

☐

Certificate of Insurance required?

Liability: ____ Yes ____ No.

Alcoholic Beverage: ____ Yes ____ No.

Worker's Compensation: ____ Yes ____ No.

If Certificate is not attached or is incorrect, return to _____ Department.

Certificates approved as submitted: ____ Yes ____ No.

Additional instructions: _____

☐

City Manager

Date Recd _____

Date Out _____

☐

For City Manager signature and forward to City Clerk, or

☐

For City Manager signature and return to _____ Department.

☐

City Clerk

Date Recd _____

Date Out _____

☐

For City Clerk signature and filing in contract file.

☐

Mail original to _____

☐

Return ____ original and/or ____ copy to _____ Department.

Additional instructions: _____

☐

Human Resources

Date Recd _____

Date Out _____

☐

For Human Resources Director signature.

☐

Return to _____ Department.

☐

Finance/Accountant

Date Recd _____

Date Out _____

☐

SAMPLE OF SIGNATURES REQUIRED.

FOR CITY MANAGER SIGNATURE
PLEASE PREPARED AS BELOW:

FOR MAYOR SIGNATURE
PLEASE PREPARE AS BELOW:

H. Dixon Flynn
City Manager

Stephen J. Mann
Mayor, City of Lodi

Approved as to Form:

Approved as to Form:

Randall A. Hays
City Attorney

Randall A. Hays
City Attorney

ATTEST:

ATTEST:

Jacqueline L. Taylor
Interim City Clerk

Jacqueline L. Taylor
Interim City Clerk



Grand Jury
County of San Joaquin
Courthouse
222 East Weber Avenue-Room 303
Stockton, California 95202
(209)468-3855

FINAL REPORT
**CASE #2199: MANTECA-LATHROP WASTEWATER TREATMENT
CONTRACT
CONTRACT MANAGEMENT & TRACKING**
Cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy

REASON FOR INVESTIGATION

This investigation was initiated by the San Joaquin County Civil Grand Jury (SJCCGJ) as a review of the Manteca-Lathrop Wastewater Treatment Contract. The investigation was expanded to include contract management and tracking at all seven (7) San Joaquin County Cities.

BACKGROUND

The issue with the Manteca-Lathrop Wastewater contract was Manteca's long-term under-billing of Lathrop for services provided. Billing and payment procedures are described as terms of the contract. Those terms require that Lathrop pay for its proportional share of the actual operation and maintenance of wastewater treatment. The apportioning of the cost is to be based on the respective flows, and sewage strengths (BOD and Suspended Solids) from each party. Manteca billed a flat monthly charge, and Lathrop paid the bill.

That flat rate billing/payment practice went on since 1987 until it was challenged in November of 1999. The SJCCGJ investigation started after the problem surfaced and the investigation was later expanded to all cities in an effort to determine if this was an isolated condition, or if it could happen with other contracts and/or other Cities.

METHOD OF INVESTIGATION

The SJCCGJ obtained and reviewed a copy of the Manteca - Lathrop Wastewater Treatment Contract. We met with City of Manteca staff for an overview and requested

METHOD OF INVESTIGATION continued

additional related documents. We then met with the City of Lathrop staff for their overview. Lathrop staff provided related documents. We reviewed pertinent related documents including:

- Annual Sewer Budgets since 1989
- Lathrop Billing since 1989
- Portions of the Annual Audit pertaining to the Sewer Account since 1989
- Manteca – Raymus Village Contract
- Correspondence

The investigation was expanded beyond the original Manteca-Lathrop contract issues. Letters were sent to all seven (7) cities in San Joaquin County requesting copies or written descriptions of their Contract Management Policies. All cities contacted responded. Interviews were conducted with the responsible staff members from each City. Manteca's meeting also included follow up questions and requests for copies of additional correspondence relative to the Manteca-Lathrop Wastewater Contract administration.

FINDINGS: CITY OF MANTECA

1. The City of Manteca did not, and is still not administering the Manteca-Lathrop Wastewater Treatment and Disposal Contract consistent with contract provisions. Manteca's practice led to under-billing for services provided and they have not established a Replacement Account.
2. The City of Manteca has billed the City of Lathrop \$1,093,574.20 as the balance due for sewer services provided between January 1, 1991 and December 31, 1999. This bill is based on a "fixed cost per unit sewer rate", rather than the "proportionate share of the actual costs based on usage" as provided by the contract, (Section V: Maintenance and Operation and Replacement, Subparagraph B: District's Share of Costs).
3. The City of Manteca staff, in our second interview, stated that they are implementing a "Records Management System" on a schedule of one department per year.
4. Over the course of the investigation, the City of Manteca has not shown substantial progress toward determining and/or increasing the reliability of the City's contract checkpoints.
5. The City of Manteca has not adequately addressed Manteca-Lathrop Wastewater Treatment Contract problems or the cause for these problems. The City could have dealt with the problem more aggressively.

FINDINGS: CITY OF LATHROP

6. The City of Lathrop assumed the Lathrop County Water District's position in the Contract/Agreement between the Lathrop County Water District and the City of Manteca dated March 5, 1984.
7. The City of Lathrop has failed to submit to the City of Manteca a yearly written summary of the projected daily peak month flow, BOD and suspended solids for each year during the succeeding five (5) year period, (Section IV: District Capacity Rights, Subparagraph D: Future Capacity Option).

FINDINGS: ALL CITIES

8. No City responded to our request with a comprehensive written Contract Management Policy. Our interview process showed that all Cities have adequate practices in place for standard transactions. Many Cities have good procedures to help insure contractual compliance.
9. The procedures for contract management were generally regarded and addressed as part of the Cities overall fiscal management responsibilities. The same checkpoints were applied to all financial transactions whether governed by contract or ordinance.
10. While the procedures showed many similarities from City to City, they also varied greatly depending upon the size of the City, the size of City staff, and management styles.
11. All Cities had ordinances in place or followed the Government Code provisions that pertain to issuing contracts.
12. Part of the procedure in each City included multiple checkpoints for all transactions and watching for exceptions in the revenue stream.
13. Each City determines its own level of required checks and balances. They consider the costs of applying the contract controls they employ weighed against the additional safety these controls provide.
14. The Cities of Escalon and Stockton monitor contracts through a single checkpoint, other Cities monitor them through multiple checkpoints.
15. Some Cities find that standardizing contract elements simplified contract interpretation and management.

FINDINGS: ALL CITIES continued

16. During investigation process of the various Cities we discovered that some of the Cities followed what we felt were good and innovative practices.

- Stockton: Good Purchasing Booklet; Utilizes "Tickler System" (Tickler System is a program that tracts and reminds employees and departments of bench mark dates and required performances)
- Tracy: Standardizes Contracts; Innovative Fire Department Financing through use of Joint Power Authority
- Escalon: New "Tickler System"
- Ripon: Standardization of Contract Review Schedules; Independent Audits of all Contracts
- Lathrop: Contracts with Sheriff's Department for Police Services

RECOMMENDATIONS: CITY OF MANTECA

- A. Due to the apparent magnitude of the under-billing and the continued non-compliance with contract requirements, the Manteca City Council should retain an independent expert to evaluate the Manteca-Lathrop Wastewater Treatment Contract relative to determining contract compliance requirements and proper billing to the City of Lathrop.
- B. The Manteca City Council should obtain an Independent Management Audit to review the City's method of contract administration and financial controls.
- C. The City of Manteca should accelerate the implementation of its "Records Management System".

RECOMMENDATIONS: CITY OF LATHROP

- D. The City of Lathrop should review and adhere to the provisions of the Manteca-Lathrop Wastewater Treatment Contract including preparation of the Annual Five-Year Plan.

RECOMMENDATIONS: ALL CITIES

- E. The City Manager of each City should establish a written policy on Contract Management and Tracking, as part of his Fiscal Management Policies. Elements of that policy should include:
 - a. A central file for Management and Tracking of all contracts. This file should include for each contract

RECOMMENDATIONS: ALL CITIES continued

- i. A copy or description of the contract and where it is stored
 - ii. Who the contract is with
 - iii. The term (length) of the contract
 - iv. Who, by title or position, administers the contract
 - v. Who, by title or position, can approve changes
 - vi. Other information deemed useful
- b. A requirement that each contract be read and reviewed at least yearly by the appointed contract administrator. This could be done as part of the Budget Process.
- c. Establishment of a "tickler system" that would help with meeting the important milestones established in any and all contracts.
- d. Standardize as many aspects of contracts as possible.

RESPONSE REQUIRED

Pursuant to Sections 933.05 of the Penal code:

1. **The City of Manteca** for Findings #1 - #5 and Recommendations "A", "B", and "C" shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of the publication of this Report. That statute requires that as to each finding in the report, the response indicate one of the following:
 - a. The respondent agrees with the finding.
 - b. The respondent disagrees with the finding with an explanation of the reasons therefore.

Section 933.05 also requires as to each recommendation, the response indicate one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be, with a timeframe for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a timeframe not to exceed six (6) months.

RESPONSE REQUIRED continued

- d. The recommendation will not be implemented, with an explanation therefore.
2. The City of Lathrop for Findings #6 and #7 and Recommendation "D" shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of the publication of this Report. That statute requires that as to each finding in the report, the response indicate one of the following:
- a. The respondent agrees with the finding.
 - b. The respondent disagrees with the finding with an explanation of the reasons therefore.

Section 933.05 also requires as to each recommendation, the response indicate one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be, with a timeframe for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a timeframe not to exceed six (6) months.
- d. The recommendation will not be implemented, with an explanation therefore.

3. All San Joaquin County Cities (Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton and Tracy) for Findings #8 through #15 and Recommendation "E" shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of the publication of this Report. That statute requires that as to each finding in the report, the response indicate one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding with an explanation of the reasons therefore.

Section 933.05 also requires as to each recommendation, the response indicate one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.

RESPONSE REQUIRED continued

- b. The recommendation has not yet been implemented, but will be, with a timeframe for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a timeframe not to exceed six (6) months.
- d. The recommendation will not be implemented, with an explanation therefore.